

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIZABETH CHAN, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, *et al.*,

Defendants.
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: No. 1:23-cv-10365-LJL
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NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the Memorandum of Law of Defendant Stephanie Winkelhake, P.E., in Her Official Capacity as Chief Engineer of the New York State Department of Transportation, in Support of Her Motion to Dismiss,¹ and upon all the pleadings and proceedings previously had in the above-captioned action, the undersigned will move this Court pursuant to Federal Rule of Civil Procedure 12(b)(1), at the Daniel Patrick Moynihan United States Courthouse, Courtroom 15C, 500 Pearl Street, New York, New York 10007, at such date and time as the Court may set, for an order dismissing defendant Stephanie Winkelhake, P.E., from the above-captioned action on the ground that she, in her official capacity, is immune from suit under the Eleventh Amendment to the United States Constitution.

¹ Ms. Winkelhake is the current chief engineer of the New York State Department of Transportation after the retirement of named defendant Nicholas Choubah, P.E. Accordingly, she replaces him as defendant pursuant to Federal Rule of Civil Procedure 25(d).

Dated: New York, New York
April 1, 2024

Respectfully submitted,

LETITIA JAMES,
ATTORNEY GENERAL OF THE STATE
OF NEW YORK

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*Attorneys for Defendant Stephanie
Winkelhake, P.E., in her official capacity
as chief engineer of the New York State
Department of Transportation*